

STEPTOE & JOHNSON

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

ROBERT J. CORBER

(202) 429-8108

November 17, 1988

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Room 2215
Washington, D.C. 20423

Dear Ms. McGee:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. §11303 are the original and one copy of the document hereinafter described. It relates to the railroad equipment identified below.

1. Amendment Agreement dated as of March 1, 1979 between Aetna Life Insurance Company, vendee, and BRAE Corporation, vendor.

The equipment subject to this Agreement is that identified in connection with the primary document which is Equipment Trust Agreement dated as of November 1, 1978, recorded under Recordation Number 9875.

The names and addresses of the parties to the document are as follows.

Vendor: BRAE Corporation
One Hundred Sixty Spear Street
San Francisco, CA 94105

Vendee: Aetna Life Insurance Company
141 Farmington Avenue
Hartford, Connecticut 06156

Please file and record the document and index it under the names set forth above. Since this is a secondary document related to the Equipment Trust Agreement recorded under Recordation Number 9875, it is requested that this document be given the next available letter designation under Recordation Number 9875. We are informed that the last letter designation before this date was EE.

A fee of \$13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the person presenting this letter.

9875-*Al*
NOV 9 1988 9 20 AM
INTERSTATE COMMERCE COMMISSION

No. 8-322A030
Date NOV 17 1988
Fee \$ 13.00
ICC Washington, D. C.

Paul G. Dyer

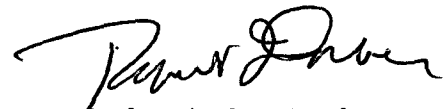
C.

Ms. Noreta R. McGee
November 17, 1988
Page Two

A short summary of each document to appear in the index follows:

1. Amendment Agreement dated as of March 1, 1979 between Aetna Life Insurance Company, vendee, and BRAE Corporation, vendor, covering railcars as marked in connection with the primary document.

Very truly yours,



Robert J. Corber

Enclosures as stated

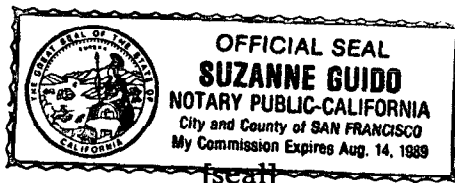
STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

)
) ss.
)

I, Suzanne Guido, a Notary Public in and for the State of California, duly commissioned and sworn, do certify that on this 21 day October, in the year 1988, I carefully compared the annexed copy of the lease agreement with the original thereof, and that the same is a full, true and correct copy of said original lease agreement.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of San Francisco, the day and year in this certificate first above written.



Suzanne Guido
Notary Public

My commission expires: 8.14.89

Brae Corporation
Three Embarcadero Center
San Francisco, California 94111

Amendment Agreement

March 1, 1979

9875-*al*
Aetna Life Insurance Company NOV 9 1988 9 40 AM
151 Farmington Avenue
Hartford, Connecticut 06156 INTERSTATE COMMERCE COMMISSION

COPY

Attention: Bond Investment Department

Dear Sirs:

The undersigned, BRAE CORPORATION, a Delaware corporation (hereinafter called the "Company"), hereby agrees with you as follows:

1. Subparagraph (j) of Paragraph 3 of the Purchase Agreement between you and the Company dated as of November 1, 1978 providing for the issuance and sale by the Company to you of 11 $\frac{1}{2}$ Equipment Trust Certificates, First 1978 Series (hereinafter called the "Agreement") is hereby amended to read in its entirety as follows:

"(j) At each date on which Deposited Cash (as defined in the Equipment Trust Agreement) is to be applied to the purchase of Equipment, the Owner will have good and marketable title to such Equipment, such Equipment will be subject to no Lien whatsoever which would rank prior to or equal with the rights of the Trustee under the Trust Agreement other than Liens permitted by clauses (i), (ii) and (iii) of Section 6.05(c) of the Equipment Trust Agreement and other than a Lien in favor of the manufacturer of such Equipment which shall be discharged upon payment for such Equipment."

2. Paragraph 3 of the Agreement is hereby amended by adding thereto a new subparagraph (1) to read in its entirety as follows:

"(1) The Company has, if requested by you, delivered to you a list of all employee benefit plans established or maintained by the Company

or as to which the Company is a party in interest or a disqualified person. Furthermore, assuming the accuracy of your representation as to the source of funds used to purchase the Trust Certificates being purchased by you, the entering into of this Agreement and the purchase of Trust Certificates by you will not constitute a prohibited transaction under Section 406 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") or Section 4975 of the Internal Revenue Code of 1954, as amended. As used in this subparagraph (1) of Paragraph 3 or in Paragraph 5, the terms "separate account", "employee benefit plan" and "party in interest" shall have the respective meanings assigned to such terms in Section 3 of ERISA and the term "disqualified person" shall have the meaning assigned to such term in Section 4975 of the Internal Revenue Code of 1954, as amended."

3. Paragraph 5 of the Agreement is hereby amended by adding to the end thereof a new sentence to read in its entirety as follows:

"If you are Aetna Life Insurance Company, you represent that you have requested that a list of employee benefit plans be delivered to you pursuant to subparagraph (1) of Paragraph 3 and you also represent that no part of the funds being used by you to pay the purchase price of the Trust Certificates being purchased by you hereunder constitutes assets of any separate account maintained by you in which any employee benefit plan identified in such list participates. Furthermore, if you are Aetna Life Insurance Company you represent that you have identified to the Company the source of funds being used by you to pay the purchase price of the Trust Certificates being purchased by you on March 8, 1979. If you are The Prudential Insurance Company of America, you represent that you have not requested such a list and you also represent that no part of the funds being used by you to pay the purchase price of the Trust Certificates being purchased by you hereunder constitutes assets of any separate account maintained by you."

4. Clauses (v) and (vi) of subparagraph (a) of Paragraph 6 of the Agreement are hereby amended to read in their entirety as follows:

"(v) the Equipment Trust Agreement, as amended or supplemented to describe by number each unit of Trust Equipment delivered on or prior to the date of such opinion, and each lease referred to in Schedule A to the Equipment Trust Agreement relating to Trust Equipment delivered on or prior to the date of such opinion have been duly filed and recorded with the Interstate Commerce Commission in accordance with 49 United States Code 11303 and except as referred to in clause (vi) of this subparagraph no other filing or recordation is necessary to establish and preserve the rights of the Trustee or the holders of the Trust Certificates in and to the Trust Equipment delivered on or prior to the date of such opinion, or in and to such leases to the extent that such leases relate to such Trust Equipment, in any state of the United States of America or the District of Columbia;

"(vi) Uniform Commercial Code Financing Statements relating to the assignments contained in the Equipment Trust Agreement of the rights of the Company under each lease referred to in Schedule A to the Equipment Trust Agreement, to the extent that such rights relate to Trust Equipment delivered on or prior to the date of such opinion, and under the maintenance contract referred to in Schedule B to the Equipment Trust Agreement, to the extent that such rights relate to Trust Equipment delivered on or prior to the date of such opinion, from the Company to the Trustee as security for the Trust Certificates have been duly filed and recorded with the Secretary of State of the State of California;"

5. Clauses (i) and (ii) of subparagraph (d) of Paragraph 6 are hereby amended to read in their entirety as follows:

"(i) the Equipment Trust Agreement, as amended or supplemented to describe by number each unit of Trust Equipment delivered on or prior to the date of such opinion, and each lease listed in Schedule A to such Equipment

Trust Agreement relating to Trust Equipment delivered on or prior to the date of such opinion have been duly filed and recorded with the Interstate Commerce Commission in accordance with 49 United States Code 11303 and no other agreement or document has been so filed or recorded (which filing or recording has not been appropriately terminated) as of the date of such opinion asserting a grant by the Company of an interest in or a Lien on the Trust Equipment delivered on or prior to the date of such opinion or such leases. No other filing, registration or recording is necessary in order to establish and preserve the rights of the Trustee or the holders of the Trust Certificates in and to such Trust Equipment, or in and to such leases to the extent that such leases relate to such Trust Equipment, in any state of the United States of America or the District of Columbia;

"(ii) the Equipment Trust Agreement constitutes in the United States of America a legal, valid and perfected first Lien on and first priority security interest in the leases listed on Schedule A to Equipment Trust Agreement to the extent that such leases relate to Trust Equipment delivered on or prior to the date of such opinion, as security for the Trust Certificates."

6. Exhibit A to the Agreement is hereby amended to read in its entirety as provided in Exhibit A hereto.

7. You hereby consent (a), subject to receipt by the Trustee of (i) proper evidence of the filing of a Uniform Commercial Code Financing Statement with the Secretary of State of the State of California relating to the assignment of such leases to the Trustee only to the extent that they relate to Trust Equipment (as defined in the Equipment Trust Agreement) and (ii) proper evidence that there is no other Uniform Commercial Code Financing Statement (except one other such Financing Statement in favor of the Trustee) relating to such leases on file with the Secretary of State of the State of California, to the execution and delivery by the Trustee of an amendment to the Equipment Trust Agreement in the form attached hereto as Exhibit B, and (b) to the execution and delivery by the Trustee from time to time of amendments or supplements to Schedule A of such Equipment

Trust Agreement to insert identifying numbers of the railroad cars referred to therein.

8. Substantially simultaneously with the execution and delivery of this Amendment Agreement the Company is entering into an amendment agreement with the Other Purchaser (as such term is defined in the Agreement) identical with this Amendment Agreement in all respects except as to the identity of the Other Purchaser.

9. This Amendment Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

10. The provisions of this Amendment Agreement and all rights and obligations of the parties hereunder shall be governed by the law of the State of New York.

Very truly yours,

BRAE CORPORATION

By Lawrence W. Biscoe
Vice President

The foregoing is hereby accepted.

David M. Clarke
Aetna Life Insurance Company
DAVID M. CLARKE
Investment Officer
Bond Investment Department

EXHIBIT A

Name and Address of Purchaser	1 Aggregate Principal Amount of Trust Certificates	2 Principal Amount of Trust Certifi- cates to be Purchased on November 30, 1978	3 Principal Amount of Trust Certifi- cates to be Purchased on March 8, 1979	4 Principal Amount of Trust Certifi- cates to be Purchased on May 10, 1979	5 Principal Amount of Trust Certifi- cates to be Purchased on August 10, 1979	6 Principal Amount of Trust Certifi- cates to be Purchased on September 10, 1979
The Prudential Insurance Company of America Prudential Plaza Newark, New Jersey 07101 Attention: Vice Presi- dent in charge of the Corpo- rate Finance Department (All payments in respect of the Trust Certificates shall be made by credit of immediately available funds to its Account No. 826-00-027 in Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, New York 10005.)	\$ 28,000,000	\$2,122,842	\$7,736,842	\$7,368,421	\$5,157,895	\$5,614,000
Aetna Life Insurance Company 151 Farmington Avenue Hartford, Connecticut 06156 Attention: Bond Invest- ment Depart- ment	10,000,000	758,158	1,013,158	2,631,579	1,842,105	2,005,000

EXHIBIT A

2

Name and Address of Purchaser	1 Aggregate Principal Amount of Trust Certificates	2 Principal Amount of Trust Certifi- cates to be Purchased on November 30, 1978	3 Principal Amount of Trust Certifi- cates to be Purchased on March 8, 1979	4 Principal Amount of Trust Certifi- cates to be Purchased on May 10, 1979	5 Principal Amount of Trust Certifi- cates to be Purchased on August 10, 1979	6 Principal Amount of Trust Certifi- cates to be Purchased on September 10, 1979
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(All payments in respect of the Trust Certificates shall be made by credit of immediately available funds to its Account No. 000-45-764 in Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, New York 10005.)

Aetna Life Insurance Company (for the account of certain separate accounts each of which shall, for the purposes of Sections 5.04, 5.08, 8.06(b) and 9.03 of the Equipment Trust Agreement be deemed a separate holder of Trust Certificates).

1,750,000

In the case of all payments on account of the Trust Certificates by:

(a) crediting (in the form of federal funds bank wire transfer) its Account No. 000-45-808 in Morgan Guaranty Trust Company of New York 23 Wall Street

EXHIBIT A

3

1 Name and Address of Purchaser	2 Aggregate Principal Amount of Trust Certificates	3 Principal Amount of Trust Certifi- cates to be Purchased on November 30, 1978	4 Principal Amount of Trust Certifi- cates to be Purchased on March 8, 1979	5 Principal Amount of Trust Certifi- cates to be Purchased on May 10, 1979	6 Principal Amount of Trust Certifi- cates to be Purchased on August 10, 1979	7 Principal Amount of Trust Certifi- cates to be Purchased on September 10, 1979
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Attention: Money Trans-
fer Depart-
ment

and (b) providing suffi-
cient information with
such wire transfer to
identify the source and
application of such funds

In the case of all notices
in respect of payment:

Aetna Life Insurance
Company
151 Farmington Avenue
Hartford, Connecticut
06156

Attention: Treasury
Services B

In the case of all other
communications:

Aetna Life Insurance
Company
151 Farmington Avenue
Hartford, Connecticut
06156

Attention: Bond In-
vestment
Department